

Application No.: 10/688468

Case No.: 55027US010

Remarks

Claims 1-20 are pending in the present application. Reconsideration of the Examiner's rejections is respectfully requested in view of the following remarks.

Rejections based on 35 U.S.C. § 102(e)

Claims 1-14 were rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 5,882,774 to Jonza et al. ("Jonza"). The Applicants traverse this rejection and respectfully submit that Jonza does not teach, explicitly or inherently, all elements of the pending claims.

For example, independent claims 1 and 12 require "a plurality of first optical layers, each first optical layer being oriented and comprising a polyester having terephthalate comonomer units and ethylene glycol comonomer units; and a plurality of second optical layers disposed in a repeating sequence with the plurality of first optical layers, each second optical layer comprising a copolymer of polymethyl methacrylate that contains comonomer units that depress a glass transition temperature of the copolymer below a glass transition temperature of the polyester of the first optical layers."

The Examiner has interpreted Jonza as disclosing "a plurality of first optical layers 12, each first optical layer being oriented and comprising a polyester (col. 2, lines 63-66) having terephthalate comonomer units (col. 3, lines 44-56) and ethylene glycol comonomer units (col. 1, lines 34-42; & col. 5, lines 9-15)." The Applicants respectfully disagree. Col. 2, lines 63-66 of Jonza refers to alternating layers of a crystalline naphthalene diacarboxylic acid polyester such as 2,6 polyethylene naphthalate (PEN) 12 and a selected polymer 14. Col. 3, lines 44-56, of Jonza lists comonomers that may be substituted into the naphthalene diacarboxylic acid polyester to produce its copolymers (co-PEN), and so does col. 1, lines 34-42. Col 5, lines 9-15 of Jonza describes materials suitable for the selected polymer layers 14, and not the layers 12. Thus, the passages cited by the Examiner do not support the Examiner's position.

The Examiner further states that at col. 16, line 67, Jonza discloses a plurality of second layers disposed in repeating sequence with the first layers, each layer comprising a copolymer of polymethyl methacrylate (PMMA). However, that line of Jonza's disclosure lists PMMA as an exemplary material generally suitable for making multilayer films, but it does not teach or suggest that a copolymer of polymethyl methacrylate (co-PMMA) should be used in the second layers in combination with the first layers that include polyester having terephthalate comonomer units and ethylene glycol comonomer units, as required by the pending claims of the present

application. Furthermore, contrary to the Examiner's assertion, Jonza does not teach or suggest a copolymer of polymethyl methacrylate, present in the second optical layers, that contains comonomer units that depress the glass transition temperature of the copolymer below the glass transition temperature of the polyester of the first optical layers. The Examiner relies on col. 3, line 65 - col. 4, line 7, of Jonza, which states:

The glass transition temperatures of the polymers of the present invention are compatible so adverse effects such as cracking of one set of polymer layers during stretching does not occur. By compatible is meant that the glass transition temperature of the selected polymer is lower than the glass transition temperature of the PEN layer. The glass transition temperature of the selected polymer layer temperature may be slightly higher than the glass transition temperature of the PEN layer, but by no more than 40° C.

The cited passage merely describes a desirable quality of the selected polymer layers of Jonza, i.e., such that the glass transition temperature of the selected polymer layers is compatible with, and for example lower than, the glass transition temperature of the PEN layers. However, Jonza neither discloses nor suggests second optical layers comprising co-PMMA that contain comonomer units that depress the glass transition temperature of co-PMMA below the glass transition temperature of the polyester having terephthalate comonomer units and ethylene glycol comonomer units of the first optical layers, as required by all independent claims of the present application. Therefore, Jonza does not teach all elements of at least claims 1 and 12 and therefore it does not anticipate at least claims 1 and 12. Claims 2-11 and 13-14, which are dependent on claims 1 and 12, respectively, and incorporate all their limitations, are also not anticipated by Jonza for at least the foregoing reasons.

Rejections based on 35 U.S.C. § 103(a)

Claims 16-18 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonza. Claims 15 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonza in view of the Applicants' submitted prior art. The Applicants traverse these rejections and respectfully submit that it would not be obvious to a person of ordinary skill in the art to modify the disclosure of Jonza to arrive at the subject matter of the pending claims.

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MPEP § 2143 provides that one of the basic criteria for establishing a *prima facie* case of obviousness is the that prior art must teach or suggest all the claim limitations. Jonza, alone or in combination with other references, does not disclose or suggest all elements of the pending claims. As explained above, Jonza does not disclose or suggest "a plurality of first optical layers, each first optical layer being oriented and comprising a polyester having terephthalate comonomer units and ethylene glycol comonomer units." In addition, Jonza does not teach or suggest a copolymer of polymethyl methacrylate used in the second layers in combination with the first layers as required by the pending claims of the present application. Furthermore, Jonza does not teach or suggest that the copolymer of polymethyl methacrylate, present in the second optical layers, contains comonomer units that depress the glass transition temperature of the copolymer below the glass transition temperature of the polyester of the first optical layers.

MPEP § 2143 also provides that there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teaching. However, Jonza or any references cited by the Applicant do not contain any such suggestion or motivation.

It is respectfully urged that the claims now pending before the Examiner are in condition for allowance. A notification of allowability is respectfully solicited. Should the Examiner determine that a telephone interview would be beneficial in resolving any of the issues in this case, the Examiner is invited to telephone the undersigned attorney at the telephone number noted below.

Respectfully submitted,

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Date

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